

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JEROME P. TOAL,

Plaintiff,

v.

Case No. 07-CV-14013-DT

WARREN POLICE DEPARTMENT et al.,

Defendants.

**OPINION AND ORDER DISMISSING CASE WITHOUT PREJUDICE
FOR LACK OF PROSECUTION**

On September 24, 2007, Plaintiff Jerome Toal initiated this 42 U.S.C. § 1983 action, seeking compensatory and punitive damages for Defendants' alleged violations of his Sixth and Fourteenth Amendment rights. (See Pl.'s Compl.) The court granted Plaintiff's motion to proceed *in forma pauperis*. (See 10/1/07 Order.) The Clerk's Office sent Plaintiff a letter, dated October 3, 2007, informing him of his pauper status, providing him with instructions and enclosing summons for him to serve on Defendants. (See 10/3/07 Clerk's Letter.) Despite having been correctly addressed to the only address provided by Plaintiff, this correspondence was returned to the Clerk's Office as undeliverable because Plaintiff was "not at this address."¹ (Returned Envelope.)

It appears that the court is unable to contact Plaintiff at this time, and without the summons Plaintiff will be unable to serve Defendants as required under Federal Rule of

¹Plaintiff's current location is unclear and the Michigan Department of Corrections currently lists Plaintiff as an absconder from probation. See Michigan Department of Corrections Offender Tracking Information System, <http://www.state.mi.us/mdoc/asp/otis2profile.asp?mdocNumber=299892> (last visited October 16, 2007).

Civil Procedure 4(m). The court will therefore dismiss the above-captioned case for Plaintiff's failure to prosecute. See E.D. Mich. LR 41.2. Accordingly,

IT IS ORDERED that this action is DISMISSED WITHOUT PREJUDICE for failure to prosecute pursuant to Eastern District of Michigan Local Rule 41.2.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 17, 2007

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 17, 2007, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522